

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 6

REMARKS

The final Office Action of September 8, 2004 has been received and carefully reviewed. By the above actions, claims 1, 3, 6 and 7 have been amended. Therefore, claims 1, 3-7 are remain pending with claims 1, 3 and 7 being independent. The Examiner's indication that claim 3 would be allowable if placed into independent form, including the limitations of the independent claim and any intervening claim, is greatly appreciated. Accordingly, the Applicant has amended claim 3 to be placed into independent form as well as to overcome the formality rejection, under § 112 (second paragraph), and to overcome the formality objection of independent claim 7 (as well as claims 1, 4 and 5) from which claim 3 previously was dependent. Therefore, it is respectfully requested that the claims 3 and 5 be indicated as allowed in the next Office Action. Further, in light of the above amendments and for the reasons to follow claims 1, 4, 6 and 7 are also believed to be patentable over the prior art of record. Consequently, reconsideration of the application is respectfully requested.

With regard to the rejection of claims 3, 4 and 7, under § 112(second paragraph), as indicated at page 3 of the Office Action, the Applicant respectfully traverses this rejection since the claims must be read in light of the specification which clearly indicates, see for example page 26, line 3, to page 27, line 12, that the "current" or "present" condition is the condition, e.g., closed, of the function, e.g., opening a window, that existed prior to the controlling section actuation to change the operational state of a device. The Examiner's statement that it is "not understood" how the claimed device can "return to its current condition", is improper in setting forth a proper rejection, under § 112 (second paragraph), according to the new requirements of MPEP Chapter 2173.02 which require not only that the Examiner must consider the teachings of specification in making such a determination, but also that the Examiner provide some explanation, in light of the teachings of the

W344521.1

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 7

specification, as to why the claims lack definiteness. Further, the Examiner's statement that "the examiner understands the current condition to be the condition the device is presently in and therefore does not understand how the device can return to a condition it is already in" illustrates either a complete lack of understanding of the invention disclosed in the specification or a failure to interpret the claim limitation in question in a manner consistent with the specification as is required, see MPEP Chapter 2111. Accordingly, the Applicant asserts that no such explanation in support of a proper § 112 (second paragraph) can be made by Examiner since the instant specification clearly sets forth the "present" or "current" condition of the device as the condition the device was in prior to the "controlling section" taking action to move the condition of the device from the "present" or "current" condition to a different condition. However, in order to further clarify the invention the Applicant proposes the above non-narrowing, clarifying amendment to claims 3 and 7. Withdrawal of the § 112 (second paragraph) of claims 3, 4, and 7 is now respectfully requested. Finally, the Examiner is also requested, if the instant § 112 rejection is to be maintained in the next Office Action, to provide a detailed explanation of the reasoning behind such a rejection, taking note of the teachings in the instant specification and the requirements of MPEP Chapter 2173.02.

It is noted that the Examiner has provided no statement of rejection of the instant claim 6; however, in light of the Examiner's indication that claim 5 can be made allowable via its dependency on claim 3, it is assumed that the "rejection" of claim "5", under § 103, is intended to be claim "6"

With regard to the Examiner's rejection of claim 1, under 35 U.S.C. § 102(b), as being anticipated by the teachings of Nojiri et al. ('528) and the rejection of claims 4, 5 [sic 6] and 7, under 35 U.S.C. § 103(a), as being obvious in view of the combination of teachings of Nojiri et al. ('528) and Onodera et al. ('670), the

W344521.1

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 8

Applicant continues to traverse each of these rejections for the reasons set forth in the Amendment of June 21, 2004 and for the additional reasons to follow.

As pointed out previously, the instant independent claim 1 sets forth a device controller comprising the following features:

...an operation section which is capable of sending an operation signal to a device for achieving an original functionality; and

a controlling section for notification, at a point in time at which the device becomes able to receive the operation signal from the operation section, that the device has become able to receive the operation signal from the operation section by actuating a function that the device has for achieving the original functionality to thereby change an operational state of the device from a present condition to a condition that is different from the present condition of the device,

wherein, immediately after the different condition is achieved, the controlling section completes the notification by changing the operational state of the device from the different condition to the present condition. (Emphasis added)

Independent claim 7 also recites a device controller as follows:

...an operation section which can send an operation signal to a device, for achieving an original functionality, disposed at a position spaced apart from the operation section; and

a controlling section which, at a point in time at which the controlling section becomes able to receive the operation signal from the operation section,

changes an operational state of the device from an initial current condition to a condition that is different from the initial current condition of the device by actuating a function that the device has for achieving the original functionality, and

immediately returns the device, after achieving the different condition, to the initial current condition by again actuating the function of the device for achieving the original functionality. (Emphasis added)

W344521.1

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 9

The Applicant continues to assert that each of these highlighted features are not taught or even remotely suggested by Nojiri et al or Onedera et al.

The Applicant notes, that the Examiner, by the indication that original claim 3 would be allowable, has in fact indicated that neither Nojiri et al. or Onedera et al. teach or suggest the above highlighted features since the features of claim 3 are nothing more than a specific embodiment, i.e., driving a driving part a predetermined amount and immediately returning the driven part in the opposite direction to the previous initial position (of claim 7), of the broad claim language of claim 7. Further, a detailed review of the Nojiri et al. reference reveals that the patentees teach a coordinated system for permitting the driver of a vehicle to operate any of a multitude of vehicle components, i.e., radio, mirror, air conditioner, by providing means (3) to activate the coordinated system (Figures 1-5; elements 2, 3, 4, 8) which upon activation of the switch (2), proceeds to issue audio commands identifying a component, e.g., radio, and then waits, e.g., 2 seconds, for a response from the driver, via the switch (2), to select that component. If selected, then the system proceeds through a series of audio prompts, again waiting 2 seconds before issuing the next audio prompt. Within that 2 second interval, the driver can select the function of the vehicle component, e.g., volume, again via the switch (2). The driver can then adjust the function of the vehicle component using the manipulative switch, e.g., select UP to increase the volume or DOWN to decrease the volume (see column 5, line 56, to column 10, line 41). At no time does the coordinated system of Nojiri et al. provide a notification to the driver, prior to activation of the vehicle component function, that the vehicle component has been selected by momentarily activating the vehicle component function (e.g., to increase the volume of the radio) before immediately returning the vehicle component to its original operational state (return the volume to its original setting) as is required by the instantly claimed invention. The Examiner's reliance on a specific portion, i.e., column 4, lines 65-68, as setting forth

W344521.1

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 10

the claimed feature of "...immediately returns the device, after achieving the different condition, to the initial current condition..." is misplaced since a fair reading of Nojiri et al. would merely teach that the control unit 6 has the function of turning "on" or "off" the power source to the radio, but certainly does not teach "...immediately" returning the radio, after achieving the different, i.e., "on" or "off", condition, to the initial "on" or "off" current condition as required by the instant claims 1 and 7.

Since the Nojiri et al. reference does not teach (explicitly or implicitly) each of the above highlighted claimed features of the invention, the rejection, under § 102(b), of claim 1 is not appropriate and must now be withdrawn.

Turning to the rejection of claims 4, 5 [sic 6] and 7, under 35 U.S.C. § 103(a), as being obvious in view of the combination of teachings of Nojiri et al. ('528) and Onodera et al. ('670), the Applicant continues to respectfully traverse this rejection.

As mentioned in the June 21st Amendment, the Onodera et al. reference teaches providing a signal to a driver indicating a vehicle component has been selected, i.e., momentary vibration to the driver's hand on the control lever or a sound from a speaker providing a distinctive vibration or sound depending the vehicle function selected (see column 4, lines 5-65). However, the patentees do not teach providing the notification to the driver that a vehicle component has been selected by momentarily activating a changed functionality of the vehicle component, before returning the vehicle component to the initial state of functionality before the change in functionality was selected as presently claimed.

Since each feature of the presently claimed invention is not taught, or even remotely suggested, by the combination of the Nojiri et al. and Onodera et al. references, and since neither reference or the Examiner provides any motivation to modify the teachings of Nojiri et al. to provide the notification via momentary activation of the vehicle component as presently claimed, a *prima facie* case of obviousness has not been established by the combined teachings of Nojiri et al and

W344521.1

Application No. 10/005,315
Amendment After Final
Response to OA dated September 8, 2004

Page 11

Onodera et al. Consequently, the rejection, under § 103(a), of claims 4, 6 and 7 is also not appropriate and must now be withdrawn.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,

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W344521.1